

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on January 23, 2003 at 3 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Dale Mahlum (R)
Sen. Trudi Schmidt (D)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Ken (Kim) Hansen (D)
Sen. Debbie Shea (D)

Members Absent: None.

Staff Present: Jane M. Hayden, Committee Secretary
Mary Vandebosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 187, 01/16/03

HEARING ON SENATE BILL 187

Sponsor: SENATOR AUBYN CURTISS

Proponents: **Mike Balko**, Educator and Great Falls Gun Show Organizer
Gilda Clancy, Montana Women's Shooting Association (MWSA)
Mike Collins, for Himself
Gary Marbut, Montana Shooting Sports Association
Dennis McCarty, Educator and Gun Dealer
Bill Tiddy, for Himself

Opponents: **Larry Copenhaver**, Montana Wildlife Federation
 Leo Dutton, Lewis & Clark County Sheriff's Office
 Hank Hudson, Department of Public Health and Human
 Services (DPHHS)
 Cheryl Liedle, Sheriff, Lewis & Clark County
 Lonnie Olson, CSED
 Amy Pfeifer, DPHHS
 Beth Satchry, Montana Coalition Against Domestic
 and Sexual Violence
 Jim Smith, Montana Sheriffs and Peace Officers
 Association
 Betty Whiting, Montana Association of Churches

Opening Statement by Sponsor:

SENATOR AUBYN CURTISS, Senate District 41, stated although Senate Bill 187 seems lengthy, it is very simple. It offers an alternative to sportsmen who value their constitutional right to privacy to the extent that they are willing to forfeit their ability to hunt and fish, rather than disclose their Social Security Numbers to obtain their conservation licenses.

The title of SB 187 clearly sets forth the purpose of the bill on lines four through nine. The underlined amendments found throughout the body of the bill merely fits the "fee provision" into the existing language in the Montana Codes Annotated.

Proponents' Testimony:

EXHIBIT(fis14b01)

Gary Marbut, Montana Shooting Sports Association, testified that in Montana the constitutional right to privacy states that it cannot be abridged without state regulations showing a compelling state interest. Congress passed the "Deadbeat Dads" Law stating that for states to receive welfare funding they must collect Social Security Numbers on vocational, occupational, and recreational licenses. This law has created a contentious issue with sportsmen who do not think they should have to give up their right to privacy or expose themselves to identity theft to get a hunting license. Locally, an example is found with Representative Bob Clark, though an avid hunter, he will not give out his Social Security Number, so he has quit hunting. The Governor of Montana had gone to Washington, D.C. to ask for an exemption for Montana to this Federal Law, but was denied the exemption.

Mr. Marbut stated that Senate Bill 187 was written in hopes that Montana could find a way around the Federal Law without

being in direct conflict with the Federal Government. Presently, the conservation license is just an administrative fee given to the Fish, Wildlife, and Parks Commission to get money up front from all the people wanting to do recreational activities under their supervision. The conservation license (or administrative fee) does not require a Social Security Number, so it would become an alternate path to obtaining hunting tags, fishing licenses, and other recreational opportunities. SB 187 is a strategic compromise in dealing with the contentious right-to-privacy issue.

Gary Marbut asserted that the Department of Public Health and Human Services (DPHHS) has opposed SB 187 and similar bills in the past because DPHHS contends that it will entail losing 114 million from the Federal Government. Before the last legislative session, FWP investigated whether other states had refused to use Social Security Numbers on their sportsmen's licenses, and whether or not those states had lost any welfare income from the Federal Government. FWP found 17 states not in compliance, or refusing to require Social Security Numbers on their sportsmen's licenses, and none of them had lost their welfare money from the Federal Government because of it. DPHHS does not want to tinker with the current law, but the sportsmen are asking for their constitutional right to privacy and are offering this compromise to be put into law.

 Mike Collins, testified that he has a problem with misusing and abusing his Social Security Number. He stated that his Social Security Number is a contract with what was then called the Department of Health, Education, and Welfare, and Social Security Administration. Mr. Collins has not received information that this contract has been changed in any way, and at the bottom of his Social Security Card it states, "For Social Security and tax purposes only, not for identification." He has not had a hunting and fishing license for seven years because he does not wish to continue to conform to the misuse of his Social Security Number. SB 187 provides an alternative system, so he would not have to supply his Social Security Number for a purpose for which it was not intended.

Gilda Clancy, Montana Women's Shooting Association, testified that the Association urges the Senate Fish and Game Committee to support Senate Bill 187.

 Opponents' Testimony:

 Lonnie Olson, the Administrator of the Child Support and Enforcement Division of DPHHS, was present to speak for the

administration of Governor Judy Martz, and introduce the Division's staff attorney, Amy Pfeifer. He did so.

Amy Pfeifer, Staff Attorney for the Child Support and Enforcement Division of DPHHS, testified against SB 187 because of the potential devastating impact on Montana's child support enforcement efforts and the potential loss of Temporary Aid for Needy Families (TANF) Public Assistance Funds. In 1997, Congress passed Public Law 10533 that was part of the Balanced Budget Act of that year. This Act amended parts of Title 4D of the Social Security Act which operates the Child Support and Enforcement Division. It amended U.S. Code 666813 to require that a Social Security Number be provided on a recreational license application. In 1999, the Montana Legislature passed a bill to comply with the federal requirement. The provision became effective July 1, 1999, and was applicable for the license year beginning March 1, 2000.

Ms. Pfeifer stated that SB 187 takes a different approach than some bills in the past, but it ultimately fails to require all applicants for hunting, fishing, and trapping licenses to provide their Social Security Number as part of the application process. It is Section 5 of SB 187 that does not comply with Federal Law. The Social Security Number does not appear on the license, but is part of the information that must appear on the application for the recreational license.

Ms. Pfeifer explained that each state as a condition for receipt of their TANF Public Assistance Funds must have a child support and enforcement program, commonly known as a Title 4D Program. Our Program is required to provide services to locate parents, establish paternity, establish child support and health insurance orders, modify those orders when appropriate, and enforce child support. The Program operates with a central office in Helena and five regional offices in Billings, Butte, Great Falls, Missoula and an interstate office in Helena. In FY 2002, the Program oversaw 40,200 cases with an average of 100 new cases added and 100 cases closed each month. In FY 2002, the Program collected approximately 51.4 million in child support. The caseload is comprised of public assistance recipients and individuals choosing to apply for services. Percentage caseload breakdowns are as follows: 18 percent are currently on public assistance; 60 percent are formerly on public assistance; and 22 percent have never been off public assistance.

Ms. Pfeifer explained that 42-USC-654 sets up the conditions for an approved state plan for child support enforcement, and one of those conditions is that the state complies with another section of Title 42D, Section 42-USC-666. This particular

requirement is contained in 42-USC-666, A.13. Federal Law provides that the failure to enact, or the repeal of any law required as a condition of an approved state plan, subjects a state's plan to disapproval by the Federal Office of Child Support Enforcement. Disapproval of the Child Support Enforcement Plan results in immediate suspension of all Federal payments to the state's Child Support Enforcement Program. If SB 187 is approved, it would result in a loss of 10 million per year for the Child Support Enforcement Program. In addition, in order for Montana to be eligible for the TANF Block Grant, Montana must certify that it has an approved Child Support Enforcement Plan. Therefore, SB 187 might also set in motion the loss of 44 million for two years of the TANF Public Assistance Funds. The total Federal funding at risk for these two programs is 108 million for the biennium.

Amy Pfeifer stated the disapproval process commences with a Notice of Intent to Disapprove, and the state has 60 days to request a hearing to protest the action. At this time, only Delaware, Maryland, and Minnesota have received Notices of Intent to Disapprove their state plans. All three of those states are currently proposing legislation to comply with Federal Law. Three states have received exemptions from the requirement to collect Social Security Numbers on recreational license applications and they are Alaska, New Hampshire, and Wyoming. All other states' requests have been denied. In summary, consider these issues and the impact of SB 187 on Montana's ability to provide child support enforcement services and public assistance to its citizens in need of those services. Section 5 of SB 187 negates the lawful possibility that SB 187 can offer an alternative to the requirement of a Social Security Number on a recreational license application.

Larry Copenhaver, Montana Wildlife Federation, testified that the Federation is the largest and oldest instate organization of hunters and anglers. Montana has the highest percent per capita of all states in the number of hunters and fishers. Forty percent of the citizens of Montana either hunt or fish in the state. The Federation opposes SB 187 for several reasons. The first reason is the conservation license itself. A conservation license gives the licensee permission to hunt farm pests, jackrabbits and non-game animals. The Federation would not like to lose the conservation license, and feels that it should not be turned into just an administrative fee. The second reason is that Federation members, as a whole, do not feel that putting their Social Security Numbers on the recreational license application is an invasion of their privacy, since those numbers do not appear on the actual hunting or fishing licenses. Mr. Copenhaver, speaking for the Federation, urged a do not pass on Senate Bill 187.

Beth Whiting, Montana Association of Churches, testified against SB 187 out of consideration for the poorest in Montana--the 40,000 children depending upon the Child Support Enforcement Program and the TANF Public Assistance Funds.

Hank Hudson, Administrator of the TANF Funds for DPHHS, stated that he was present to answer questions for the Senate Fish and Game Committee.

Informational Testimony: None given.

Questions from Committee Members and Responses:

SENATOR GREG BARKUS asked **SENATOR AUBYN CURTISS** if she were aware of the staggering impact of the fiscal note. **SENATOR CURTISS** answered affirmatively. **SENATOR BARKUS** asked **SENATOR CURTISS** if all the people who signed the fiscal note as co-sponsors would have signed it if they had known the impact to the General Fund. **SENATOR CURTISS** answered affirmatively.

SENATOR BARKUS asked **Chris Smith, FWP**, if a conservation license was required to hunt non-game animals. **Mr. Smith** stated that a conservation license was not required to take non-game animals by any method.

SENATOR KEITH BALES asked **Amy Pfeifer**, why Alaska, Wyoming, and New Hampshire were given exemptions and Montana not given one. **Ms. Pfeifer** explained that all residents in Alaska supply their Social Security Numbers every year for a permanent fund dividend. This database is three times the size of the database that collects the Social Security Numbers of Alaskans applying for recreational licenses. Wyoming's exemption was based on the lack of automation for their recreational license system database, and the intensely manual process that Wyoming currently uses to enter data for recreational licenses. In Wyoming, female prisoners enter the data for recreational licenses, and therefore, they were concerned with possible identity theft issues if Social Security Numbers were collected. New Hampshire's exemption was a combination request that concerned the cost of carrying out this requirement, and the enhancement of their recreational license extension program. Montana requested substitution of drivers license numbers for Social Security Numbers, but our exemption was denied.

SENATOR DEBBIE SHEA asked **Gary Marbut**, since SB 187 is proposing a lawful resolution for not supplying Social Security

Numbers to receive a recreational license, how is the wildlife conservation license going to do that. **Mr. Marbut** explained that SB 187 provides an alternate path for a person to go hunting other than buying a conservation license, and being required to supply a Social Security Number to get that conservation license. SB 187 offers an administrative fee where all the information required for a conservation license would be required, and the same amount of money would be paid, the exception is that Social Security Numbers would not be required. This administrative fee would then allow the angler or hunter to buy all the other tags and licenses for which a conservation license would normally make them eligible.

SENATOR DEBBIE SHEA stated that the fee is really not the issue here, the issue is to be able to track a deadbeat parent for child support purposes. **Mr. Marbut** responded that the reason this point was chosen to try to cure the problem is because it is the point at which the Social Security Number is normally collected. **Mr. Marbut** stated that it is his understanding that use of the FWP database involving Social Security Numbers is a very uncommon way to catch deadbeat parents. Despite the potential, realistically it probably does not happen at all, and if it does happen, it is rare. So if we allow some people to slip through the screening by virtue of paying the administrative fee and not give their Social Security Numbers, it would not result in a significant number of deadbeat parents escaping their responsibility.

SENATOR MIKE SPRAGUE asked **Chris Smith**, if a person's Social Security Number appears on their hunting or fishing license. **Mr. Smith** answered negatively. He explained that the first time a person buys a recreational license through the ALS System, all of their information is entered including their name, address, date of birth, and Social Security Number. Once they are in the database and they come back to purchase any other licenses, they give the license agent their ALS number (which is their birth date followed by a sequential number). The license agent enters the ALS number into the computer and the screen fully populates all the information except the Social Security Number that appears as all X's. Once the Social Security Number is in the system, it does not need to be provided again, and it is never displayed on the screen or on any printouts.

SENATOR SPRAGUE asked **Chris Smith** what is FWP's obligation under the Freedom of Information Act concerning a person's Social Security Number once it has been entered into the ALS System. **Mr. Smith** responded that by statute, FWP is obligated to keep Social Security Numbers confidential, and the database cannot

be shared except for the narrow applications for child support enforcement actions of DPHHS that includes sharing the Social Security Numbers.

Closing by Sponsor:

SENATOR AUBYN CURTISS stated that collecting Social Security Numbers for recreational licenses is yet another Federal mandate. The people who signed SB 187 were well aware of the ramifications and shared the same frustrations as the other proponents. Montana's House of Representatives has twice killed a bill under which Social Security Numbers are required based on its unconstitutionality. The Senate kept sending the bill back, and Governor Racicot told them to bite their tongues and vote for it. Enough legislators, at that time, were willing to trade their rights for dollars and knuckled under and passed the bill. Some states have exemptions, why can't Montana get one. Many believe the requirement to provide Social Security Numbers is a breach of trust by the Federal Government. Our Social Security Cards are not to be used for identification purposes. One of the fastest growing crimes in America today, is that of identity theft.

SENATOR DEBBIE SHEA carried a bill just last week to protect the interests of veterans. This bill made it illegal for Montana's Clerk and Recorders to divulge Social Security Numbers from veterans' discharge papers. If we protect rights of veterans, we should make an equal effort to protect rights of all Montanans from this invasion of privacy. While respecting DPHHS' staff's concern over their budgets, Senate Bill 187 is brought forth as a sincere alternative and urge the Committee to seriously consider a do pass on Senate Bill 187.

Other Business:

SENATOR BILL TASH asked the Senate Fish and Game Committee to wait for their Executive Action on SB 122 until next week because more amendments are possible. **SENATOR MIKE SPRAGUE** agreed to wait to take Executive Action on SB 122, and on SB 166, the Yellowstone Paddlefish Caviar bill.

ADJOURNMENT

Adjournment: 5 P.M.

SEN. MIKE SPRAGUE, Chairman

JANE HAYDEN, Secretary

MS/JH

EXHIBIT (fis14bad)